IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

Crl.MC.No. 3624 of 2000()

(C.C. No.1105/1999 of JUDICIAL FIRST CLASS MAGISTRATE COURT, ERNAKULAM.

PETITIONERS: ACCUSED
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1. **D.P.NAYYAR, 51A/GH-10, SUNDAR APARTMENTS, PAXCHIM VIHAR, NEW DELHI.**

2. **MR. PRAMOD KAPUR, MAJOR GENERAL (RETD), SECTOR-29, ARUN VIHAR, NOIDA 201 303, UTTAR PRADESH**

BY ADV. SRI.G.JANARDHANA KURUP (SR.)

RESPONDENTS: COMPLAINANT & STATE
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1. **LT.COL. (MRS) V.C.RAICHAL, SCHOOL OF NURSING, E.N.H.S., SANJEEVANI,KOCHIN 4.**

2. **STATE OF KERALA, REP.BY PUBLIC PROSECUTOR.**

BY PUBLIC PROSECUTOR SRI.AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 25/07/2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.M.C. NO.3624/2000

ORDER ON CRL.MP. NO.3412/2000 ION CRL.MC. 3624/2000

DISMISSED

25.07.2007 **SD/- K.R.UDAYABHANU, JUDGE**

/TRUE COPY/

P.S. TO JUDGE

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K.R. UDAYABHANU, J.

CRL.M.C.NO. 3624 OF 2000

DATED THIS THE 25th July 2007

ORDER

The petitioners are accused 3 and 7 in C.C.No. 1105/1999 in the file of Judicial First Class Magistrate Court-I, Ernakulam with respect to the offence under Section 138 of the Negotiable Instruments Act. The allegation is that the cheque issued for Rs.2,48,000/- by the A1 company, i.e. M/s. Hoffland Finance Limited, New Delhi got dishonoured for want of funds in the account of the accused. Although notice served on the respondent/complainant, there was no representation. It is the contention of the petitioners that they are no longer Directors of the Company and that they have submitted their resignation and the same has been accepted by the Company Secretary vide Annexures- F & G which are dated 15-4-1996. The petitioners have also produced Annexure-D order by the concerned court dealing with the offence under the Companies Act allowing application filed by the Deputy Registrar of Companies to withdraw the prosecution initiated by the Registar of Companies against the petitioners herein as they have ceased to be the Directors of the company. In the circumstances, I find that the present petitioners who are accused 3 and 7 cannot be said to be liable vide Section 141 of

the Negotiable Instruments Act. Hence, the proceedings with respect to A3 and A7 in C.C.No.1105/1999 in the Court of the J.F.C.M-I, Ernakulam is herewith quashed. The Crl.M.C. is allowed.

K.R.UDAYABHANU, JUDGE

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K.R.UDAYABHANU, J

CRL.M.C.NO. 3624 OF 2000
ORDER

25-7-2007